IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7770 of 1999
With
SPECIAL CIVIL APPLICATION No. 7772 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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EXECUTIVE ENGINEER , PUBLIC HEALTH MECHANICAL DIVISION - Petitioner(s)
Versus
MMAGRAVAT - Respondent(s)

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Appearance :

MR DG CHAUHAN for Petitioner No(s).: 1.
MR TR MISHRA for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 16/06/2005

ORAL JUDGMENT

1.0 The petitioner herein has challenged the order dated 12.02.1999 passed by the

Industrial Tribunal, Rajkot, in Reference (ITR) No.76 of 1990 and 75 of 1990, whereby the petitioner was directed to treat all the workmen as permanent from the date they were given the benefits of Daulatbhai Parmar Committee's Report and to pay arrears from 01.01.1996.

2.0 The brief facts of the case are that the respondents herein were initially engaged as daily rated labourers. On completion of five years service, they were placed in the fixed Pay-scale of Rs.950 – Rs.1500 under the Government Resolution dated 17.10.1988. On 07.02.1990, the respondents workmen through their Union raised industrial dispute being Reference (ITR) No.76 of 1990 and 75 of 1990 before the Industrial Tribunal, Rajkot, claiming permanent status from the date of their entry in the service with all consequential benefits as were given to the permanent employees of the petitioner Board.

2.1 It is the case of the petitioner Board that the appointment of the respondents were not made in accordance with the Recruitment Rules of the petitioner Board.

2.2 The Industrial Triubunal, Rajkot, by award dated 06.08.1997 directed the petitioner Board to regularise the services of the respondents from the date they were given the benefits of Daulatbhai Parmar Committee's Report and further directed to pay arrears from 01.01.1996. Feeling aggrieved by the said award, the petitioner Board approached this Court by way of Spl. Civil Application No.1536 of 1998 for quashing and setting aside the impugned award. This Court by order dated 06.11.1998 quashed and set aside the impugned award and remanded the matter back to the Tribunal for fresh adjudication.

2.3 Pursuant to the above direction, the Industrial Tribunal, Rajkot, by award dated 12.02.1999 directed the petitioner Board to treat all the workmen as permanent from the date they were given the benefits of Daulatbhai Parmar Committee's Report and to pay arrears

from 01.01.1996. Hence, these petitions.

3.0 Mr.D G Chauhan learned advocate for the petitioner Board has contended that merely because a daily rated labourer had put in certain number of years of service, it cannot entitle him the status of a permanent employee, in the absence of availability of sanctioned vacant posts.

3.1 Mr. Chauhan has further contended that the petitioner is a statutory Board constituted and established under the provisions of the Gujarat Water Supply & Sewerage Board Act and that all the appointments are made under the Recruitment Rules of the petitioner Board. He has submitted that the appointment of the respondents was not done in accordance with the Recruitment Rules of the petitioner Board, and therefore, the Tribunal by passing the impugned award has traveled beyond the scope of the reference.

4.0 Mr.T R Mishra learned advocate for the respondent has submitted that in substance the direction issued by the Tribunal was to ensure that the interest of the workmen is protected and that they are not deprived of the benefits of the said Government Resolution. He has, therefore, submitted that the Tribunal was justified in passing the impugned award.

5.0 I have heard learned counsel for the parties and perused the documents placed on record. The respondents herein were initially appointed on daily wages. The State Government, in consultation with all Labour Unions, had framed the Resolution dated 17.10.1988, the object of which was to ensure that the interest of the workmen is protected. Under the said Resolution, a daily rated labourer who had completed five years of continuous service was required to be given fixed pay-scale in the respective posts. Since the respondents herein had completed five years continuous service in the said post, they were eligible to get the benefits flowing from the said Resolution. Since the petitioner Board has taken a stand that they shall abide by the said Government Resolution dated 17.10.1998, it is expected that

the petitioner Board shall implement the said Resolution in its true letter and spirit in the case of the respondents workmen also.

6.0 Hence, the impugned order of the Industrial Tribunal, Rajkot, dated 12.02.1999 is modified to the extent that the petitioner Board is directed to give all the benefits flowing from the said Government Resolution dated 17.10.1998 to the respondent workman. It is expected from the petitioner Board that the petitioner Board shall implement the said Resolution in its true spirit in the case of the respondents workmen. With the above direction, the petitions stand disposed of. Rule is made absolute to the aforesaid extent with no order as to costs. Liberty to apply in case of difficulty.

(K. S. JHAVERI, J.)

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